

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Rafael Madrid-Ojeda,

Civil No. 05-1824 (DWF/SRN)

Petitioner,

v.

ORDER

United States of America,

Respondent.

Rafael Madrid-Ojeda, *Pro Se*, Petitioner.

James E. Lackner, Assistant United States Attorney, United States Attorney's Office, counsel for Respondent.

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Susan Richard Nelson dated August 22, 2005. No objections have been filed to that Report and Recommendation in the time period permitted.

Based on the Report and Recommendation of the Magistrate Judge, and all of the files, records and proceedings herein,

IT IS HEREBY ORDERED that:

1. Petitioner's application for habeas corpus relief under 28 U.S.C. § 2241 (Doc. No. 1) is construed to be a motion to vacate his conviction and sentence pursuant to 28 U.S.C. § 2255; and

2. The Clerk of Court is directed to transfer this action to the District of Nebraska pursuant to 28 U.S.C. §§ 1406(a) and 1631.

Dated: September 12, 2005

s/Donovan W. Frank
DONOVAN W. FRANK
Judge of United States District Court